IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

WRIT PETITION NO. 1935 of 2005 (S/S)

Ramesh Chandra Singh Rawat
S/o Sri Gajje Singh Rawat,
Presently posted as Room Helper,
District Homeopathic Hospital,
Pauri Garhwal. ..... Petitioner.

Vs.

1. Director, Homeopathic,
   Directorate of Homeopathic,
   Uttaranchal, Dehradun.
2. Medical Officer Incharge,
   District Homeopathic Hospital,
   Pauri Garhwal. ..... Respondents

December 21, 2005

Sudhir Singh, learned counsel for the petitioner.
Sri Harendra Belwal, Advocate for the state.

Hon'ble Rajesh Tandon, J.

1. Heard Mr. Sudhir Singh, learned counsel for the petitioner and learned Standing Counsel for the State. Both the learned counsel for the parties agreed that this petition may be disposed of at the admission stage.

2. By the present writ petition, the petitioner has prayed for a writ of certiorari for quashing the impugned Advertisement dated 13./12.2005 (Annexure-1).

3. Briefly stated, the petitioner was appointed as Room Helper on 14.01.1983 in District Homeopathic Hospital, Pauri Garhwal and has been regularly working on the same post against a substantive vacancy. There has been no complaint against the petitioner in his entire

service career and he has been discharging his duties to the satisfaction of all concerned. According to the petitioner, as per Advertisement dated 13.12.2005, 55 posts for the recruitment of Pharmacist and 6 posts for the recruitment of Clerks have been advertised in the Homeopathic Department of the State of Uttaranchal. The petitioner has made a representation on 15.05.1986, but no action was taken. Again he moved a representation on 08.03.1995, on which the Chief Medical Superintendent has sent his approval recommending promotion of the petitioner on class III post. Last representation of the petitioner was moved on 08.07.2005. The respondent have been taking the work of Pharmacist as well as Clerk from the petitioner since 1999 in the District Homeopathic Hospital, Pauri Garhwal and as such the petitioner is entitled for promotion. He has referred to Rule 4 of the Uttaranchal Government Servants (Criterion for recruitment by Promotion) Rules 2004.

4. Rule 4 reads as under:

> "Criterion for Recruitment by Promotion – Recruitment by promotion to the post of Head of Department, to a post just one rank below the Head of Department and to a post in any service carrying the pay scale the maximum of which is Rs. 18,300 or above shall be made on the basis of merit and to the rest of the posts in all services to be filled by promotion, including a post where promotion is made from a Non-gazetted post to a Gazetted post or from one service to another service, shall be made on the basis of seniority to the rejection of unfit."

Similar controversy arose in Writ Petition No. 78 (S/S) of 2005 – Chaturtha Sreni Rajya Karmchari Sang Vs. State of Uttaranchal and others with regard to promotion from class

IV post to class III post. In the said Writ Petition No. 78 of 2005, following directions were given by this Court:

> "For the reasons recorded above, the writ petition is allowed. The order dated 9th November 2004 passed by the Additional Director, Medical Health and Family Welfare, Dehradun by which he has directed the Chief Medical Officers of the various districts to provide one more opportunity for typing test to those candidates who have appeared in the written examination is quashed. The respondents are directed to make promotions on the post of Class III from amongst Class IV employees strictly in accordance with the Rules known as "The Uttaranchal Government Servants (Criterion for Recruitment by Promotion) Rules 2004'. No order as to costs."

6. Accordingly, the respondents are directed to consider the representation of the petitioner in the light of this Court order in Writ Petition No. 78 of 2005. The petitioner may file copy of this order along with fresh representation annexing order passed by this Court in Writ Petition No. 78 of 2005. The respondents are directed to consider the same within a period of three weeks from the date of filing of the certified copy of this order. It is expected that before making any fresh recruitment, the respondent no. 1 shall dispose of the representation of the petitioner.

7. Subject to above, the writ petition is disposed of.

(Rajesh Tandon, J.)

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